

Senate File 2072 - Introduced

SENATE FILE 2072

BY DVORSKY

A BILL FOR

1 An Act requiring certain group health insurance policies,
2 contracts, or plans to provide coverage for autism spectrum
3 disorders for certain persons, providing for a repeal, and
4 including applicability and effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 225D.1, subsection 8, Code 2016, is
2 amended to read as follows:

3 8. "*Eligible individual*" means a child less than nine years
4 of age who has been diagnosed with autism based on a diagnostic
5 assessment of autism, is not otherwise eligible for coverage
6 for applied behavioral analysis treatment under the medical
7 assistance program, ~~section 514C.28~~ 514C.31, or other private
8 insurance coverage, and whose household income does not exceed
9 four hundred percent of the federal poverty level.

10 Sec. 2. Section 225D.2, subsection 2, paragraph 1, Code
11 2016, is amended to read as follows:

12 1. Proof of eligibility for the autism support program that
13 includes a written denial for coverage or a benefits summary
14 indicating that applied behavioral analysis treatment is not
15 a covered benefit for which the applicant is eligible, under
16 the Medicaid program, ~~section 514C.28~~ 514C.31, or other private
17 insurance coverage.

18 Sec. 3. Section 225D.2, subsection 3, Code 2016, is amended
19 to read as follows:

20 3. Moneys in the autism support fund created under
21 subsection 5 shall be expended only for eligible individuals
22 who are not eligible for coverage for applied behavioral
23 analysis treatment under the medical assistance program,
24 ~~section 514C.28~~ 514C.31, or other private insurance. Payment
25 for applied behavioral analysis treatment through the fund
26 shall be limited to only applied behavioral analysis treatment
27 that is clinically relevant and only to the extent approved
28 under the guidelines established by rule of the department.

29 Sec. 4. NEW SECTION. **514C.31 Autism spectrum disorders**
30 **coverage.**

31 1. Notwithstanding the uniformity of treatment requirements
32 of section 514C.6, a group policy, contract, or plan providing
33 for third-party payment or prepayment of health, medical, and
34 surgical coverage benefits shall provide coverage benefits
35 to covered individuals under twenty-two years of age for

1 the screening, diagnosis, and treatment of autism spectrum
2 disorders if the policy, contract, or plan is either of the
3 following:

4 *a.* A policy, contract, or plan issued by a carrier, as
5 defined in section 513B.2, or an organized delivery system
6 authorized under 1993 Iowa Acts, chapter 158, to an employer
7 who on at least fifty percent of the employer's working days
8 during the preceding calendar year employed more than fifty
9 full-time equivalent employees. In determining the number
10 of full-time equivalent employees of an employer, employers
11 who are affiliated or who are able to file a consolidated tax
12 return for purposes of state taxation shall be considered one
13 employer.

14 *b.* A plan established pursuant to chapter 509A for public
15 employees.

16 2. As used in this section, unless the context otherwise
17 requires:

18 *a.* "*Applied behavior analysis*" means the design,
19 implementation, and evaluation of environmental modifications,
20 using behavioral stimuli and consequences, to produce socially
21 significant improvement in human behavior or to prevent loss
22 of attained skill or function, including the use of direct
23 observation, measurement, and functional analysis of the
24 relations between environment and behavior.

25 *b.* "*Autism spectrum disorder*" means any of the pervasive
26 developmental disorders including autistic disorder, Asperger's
27 disorder, and pervasive developmental disorders not otherwise
28 specified. The commissioner, by rule, shall define "*autism*
29 *spectrum disorder*" consistent with definitions provided in the
30 most recent edition of the American psychiatric association's
31 diagnostic and statistical manual of mental disorders, as such
32 definitions may be amended from time to time. The commissioner
33 may adopt the definitions provided in such manual by reference.

34 *c.* "*Behavioral health treatment*" means counseling and
35 treatment programs, including applied behavior analysis, that

1 meet the following requirements:

2 (1) Are necessary to develop, maintain, or restore, to the
3 maximum extent practicable, the functioning of an individual.

4 (2) Are provided or supervised by a behavior analyst
5 certified by a nationally recognized board, or by a licensed
6 psychologist, so long as the services are performed
7 commensurate with the psychologist's formal training and
8 supervised experience.

9 *d. "Diagnosis of autism spectrum disorder"* means the use
10 of medically necessary assessments, evaluations, or tests to
11 diagnose whether an individual has an autism spectrum disorder.

12 *e. "Pharmacy care"* means medications prescribed by a
13 licensed physician and any assessment, evaluation, or test
14 prescribed or ordered by a licensed physician to determine the
15 need for or effectiveness of such medications.

16 *f. "Psychiatric care"* means direct or consultative services
17 provided by a licensed physician who specializes in psychiatry.

18 *g. "Psychological care"* means direct or consultative
19 services provided by a licensed psychologist.

20 *h. "Therapeutic care"* means services provided by a licensed
21 speech pathologist, licensed occupational therapist, or
22 licensed physical therapist.

23 *i. "Treatment for autism spectrum disorder"* means
24 evidence-based care and related equipment prescribed or ordered
25 for an individual diagnosed with an autism spectrum disorder by
26 a licensed physician or a licensed psychologist who determines
27 that the treatment is medically necessary, including but not
28 limited to the following:

29 (1) Behavioral health treatment.

30 (2) Pharmacy care.

31 (3) Psychiatric care.

32 (4) Psychological care.

33 (5) Therapeutic care.

34 *j. "Treatment plan"* means a plan for the treatment of an
35 autism spectrum disorder developed by a licensed physician or

1 licensed psychologist pursuant to a comprehensive evaluation
2 or reevaluation performed in a manner consistent with the most
3 recent clinical report or recommendations of the American
4 academy of pediatrics, as determined by the commissioner by
5 rule.

6 3. Coverage for applied behavior analysis is required
7 pursuant to this section for a maximum benefit amount of
8 thirty-six thousand dollars per year. Beginning in 2020, the
9 commissioner shall, on or before July 1 of each calendar year,
10 publish an adjustment for inflation to the maximum benefit
11 required equal to the percentage change in the medical care
12 component of the United States department of labor consumer
13 price index for all urban consumers in the preceding year, and
14 the published adjusted maximum benefit shall be applicable to
15 group policies, contracts, or plans subject to this section
16 that are delivered, issued for delivery, continued, or renewed
17 on or after January 1 of the following calendar year. Payments
18 made under a group policy, contract, or plan subject to this
19 section on behalf of a covered individual for any treatment
20 other than applied behavior analysis shall not be applied
21 toward the maximum benefit established under this subsection.

22 4. Coverage for applied behavior analysis shall include the
23 services of persons working under the supervision of a behavior
24 analyst certified by a nationally recognized board or under
25 the supervision of a licensed psychologist, to provide applied
26 behavior analysis.

27 5. Coverage required pursuant to this section shall not be
28 subject to any limits on the number of visits an individual may
29 make for treatment of an autism spectrum disorder.

30 6. Coverage required pursuant to this section shall not
31 be subject to dollar limits, deductibles, copayments, or
32 coinsurance provisions, or any other general exclusions or
33 limitations of a group plan that are less favorable to an
34 insured than the dollar limits, deductibles, copayments, or
35 coinsurance provisions that apply to substantially all medical

1 and surgical benefits under the policy, contract, or plan,
2 except as provided in subsection 3.

3 7. Coverage required by this section shall be provided
4 in coordination with coverage required for the treatment of
5 autistic disorders pursuant to section 514C.22.

6 8. This section shall not be construed to limit benefits
7 which are otherwise available to an individual under a group
8 policy, contract, or plan.

9 9. This section shall not be construed as affecting any
10 obligation to provide services to an individual under an
11 individualized family service plan, an individualized education
12 program, or an individualized service plan.

13 10. Except for inpatient services, if an insured is
14 receiving treatment for an autism spectrum disorder, an insurer
15 is entitled to review the treatment plan annually, unless the
16 insurer and the insured's treating physician or psychologist
17 agree that a more frequent review is necessary. An agreement
18 giving an insurer the right to review the treatment plan of
19 an insured more frequently applies only to that insured and
20 does not apply to other individuals being treated for autism
21 spectrum disorders by a physician or psychologist. The cost of
22 conducting a review of a treatment plan shall be borne by the
23 insurer.

24 11. This section shall not apply to accident-only,
25 specified disease, short-term hospital or medical, hospital
26 confinement indemnity, credit, dental, vision, Medicare
27 supplement, long-term care, basic hospital and medical-surgical
28 expense coverage as defined by the commissioner, disability
29 income insurance coverage, coverage issued as a supplement
30 to liability insurance, workers' compensation or similar
31 insurance, or automobile medical payment insurance, or
32 individual accident and sickness policies issued to individuals
33 or to individual members of a member association.

34 12. The commissioner shall adopt rules pursuant to chapter
35 17A to implement and administer this section.

1 13. An insurer shall not terminate coverage of an individual
2 solely because the individual is diagnosed with or has received
3 treatment for an autism spectrum disorder.

4 14. *a.* By February 1, 2018, and every February 1
5 thereafter, the commissioner shall submit a report to the
6 general assembly regarding implementation of the coverage
7 required under this section. The report shall include
8 information concerning but not limited to all of the following:

9 (1) The total number of insureds diagnosed with autism
10 spectrum disorder in the immediately preceding calendar year.

11 (2) The total cost of all claims paid out in the immediately
12 preceding calendar year for coverage required under this
13 section.

14 (3) The cost of such coverage per insured per month.

15 (4) The average cost per insured per month for coverage of
16 applied behavior analysis required under this section.

17 *b.* All third-party payment provider policies, contracts,
18 or plans, as specified in subsection 1, and plans established
19 pursuant to chapter 509A shall provide the commissioner with
20 data requested by the commissioner for inclusion in the annual
21 report.

22 15. If any provision of this section or its application
23 to any person or circumstance is held invalid, the invalidity
24 does not affect other provisions or application of this section
25 which can be given effect without the invalid provision or
26 application, and to this end the provisions of this section are
27 severable.

28 16. This section applies to third-party payment provider
29 policies, contracts, or plans, as specified in subsection 1,
30 and to plans established pursuant to chapter 509A, that are
31 delivered, issued for delivery, continued, or renewed in this
32 state on or after January 1, 2017.

33 Sec. 5. REPEAL. Section 514C.28, Code 2016, is repealed.

34 Sec. 6. EFFECTIVE DATE. The following provisions of this
35 Act take effect January 1, 2017:

1 1. The sections of this Act amending sections 225D.1 and
2 225D.2.

3 2. The section of this Act repealing section 514C.28.

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill creates new Code section 514C.31 which requires
8 certain group health insurance policies, contracts, or plans
9 to provide coverage benefits for the screening, diagnosis, and
10 treatment of autism spectrum disorders. The new provision
11 is applicable to group health policies, contracts, or plans
12 issued to employers with more than 50 employees and to health
13 plans established under Code chapter 509A for public employees.
14 Coverage benefits are required for covered individuals under 22
15 years of age.

16 "Autism spectrum disorder" includes autistic disorder,
17 Asperger's disorder, and pervasive developmental disorders
18 not otherwise specified, as defined by the commissioner of
19 insurance by rule consistent with definitions provided in the
20 most recent edition of the American psychiatric association's
21 diagnostic and statistical manual of mental disorders.

22 The required maximum benefit for coverage for applied
23 behavior analysis is \$36,000 per year. Beginning in 2020,
24 the commissioner is required to make and publish annual
25 adjustments for inflation to the maximum benefit required equal
26 to the percentage change in the medical care component of the
27 United States department of labor consumer price index for
28 all consumers in the previous year. The published adjusted
29 maximum benefit is applicable to specified group policies,
30 contracts, or plans delivered, issued for delivery, continued,
31 or renewed during the following calendar year. Payments made
32 on behalf of a covered individual for any treatment other than
33 applied behavior analysis cannot be applied toward this maximum
34 benefit.

35 Coverage for applied behavior analysis must include

1 services rendered by persons working under the supervision of
2 a certified behavior analyst or a licensed psychologist to
3 provide applied behavior analysis.

4 Required coverage cannot be subject to any limits on the
5 number of visits an individual may make for treatment of an
6 autism spectrum disorder.

7 Required coverage cannot be subject to dollar limits,
8 deductibles, copayments, or coinsurance provisions, or any
9 other general exclusions or limitations of a group plan that
10 are less favorable to an insured than those that apply to
11 physical illness generally under the policy, contract, or
12 plan, except as to the maximum benefit limitation for applied
13 behavior analysis coverage.

14 Coverage of autism spectrum disorders under the new Code
15 section is to be provided in coordination with coverage
16 required for the treatment of autistic disorders pursuant to
17 Code section 514C.22. The Code section shall not be construed
18 to limit benefits otherwise available to an individual under a
19 group policy, contract, or plan.

20 The new Code section shall not be construed as affecting
21 any obligation to provide services to an individual under an
22 individualized family service plan, education program, or
23 service plan.

24 Except for inpatient services, if an insured is receiving
25 treatment for an autism spectrum disorder, an insurer is
26 entitled to review the treatment plan annually, unless the
27 insurer and the insured's treating physician or psychologist
28 agree that more frequent review is necessary. Such an
29 agreement applies only to that insured and does not apply to
30 other individuals being treated for autism spectrum disorder by
31 a physician or psychologist. The cost of conducting the review
32 of a treatment plan is to be borne by the insurer.

33 The new Code section does not apply to various specified
34 types of insurance. The commissioner is required to adopt
35 rules to implement and administer the provision.

1 An insurer shall not terminate coverage of an individual
2 solely because the individual is diagnosed with or has received
3 treatment for an autism spectrum disorder.

4 By February 1, 2018, and every February 1 thereafter, the
5 commissioner of insurance is required to submit a report to
6 the general assembly regarding implementation of the coverage
7 required under the new Code section. The annual report
8 must include information about the total number of insureds
9 diagnosed with autism spectrum disorders in the preceding
10 calendar year, the total cost of all claims paid out for the
11 required coverage, the cost of such coverage per insured per
12 month, and the average cost per insured per month for the
13 required coverage of applied behavior analysis.

14 The new Code section is severable if any portion of the Code
15 section or its application to any person or circumstance is
16 held to be invalid.

17 The new Code section applies to specified third-party
18 payment provider policies, contracts, or plans, and to plans
19 established pursuant to Code chapter 509A, that are delivered,
20 issued for delivery, continued, or renewed in this state on or
21 after January 1, 2017.

22 Code section 514C.28, which currently mandates coverage
23 for autism spectrum disorders only in group plans established
24 pursuant to Code chapter 509A for state employees, is repealed
25 effective January 1, 2017.

26 Coordinating changes are made in Code sections 225D.1 and
27 225D.2 to provide that persons who are eligible for coverage
28 of applied behavior analysis treatment under new Code section
29 514C.31 are not eligible to participate in the state autism
30 support program. These changes also take effect January 1,
31 2017.